

So Ordered.

Dated: July 13th, 2017



*Frederick P. Corbit*

Frederick P. Corbit  
Bankruptcy Judge

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12

---

13                   **UNITED STATES BANKRUPTCY COURT**  
14                   **EASTERN DISTRICT OF WASHINGTON**  
15

---

16                   IN RE:

17                   COLUMBIA MANUFACTURING,  
18                   INC. d/b/a Columbia Onion,  
19                   WAHLUKE PRODUCE, INC.,  
20                   TATOES, LLC,

21                   Debtors.

22                   Case No. 16-00898-FPC11

23                   Case No. 16-00899-FPC11

24                   Case No. 16-00900-FPC11

25                   **FINDINGS OF FACT &**  
26                   **CONCLUSIONS OF LAW RE:**  
27                   **CONFIRMATION OF CHAPTER**  
28                   **11 PLAN OF REORGANIZATION**

29  
30  
31  
32  
33  
34

BAILEY                   BB                   BUSEY

411 North 2<sup>nd</sup> St.  
Yakima, Washington, 98901  
(509) 248-4282

**FINDINGS OF FACT &**  
**CONCLUSIONS OF LAW**

1        This matter came on for hearing on July 13, 2017 on the request of  
2        Columbia Manufacturing, Inc. d/b/a Columbia Onion, Wahluke Produce, Inc.  
3  
4        and Tatoes, LLC (collectively “**Debtors**”) for confirmation of the Debtors’  
5  
6        proposed Plan of Reorganization (“**Plan**”) (Columbia Docket No. 256,  
7  
8        Wahluke Docket No. 273 Tatoes Docket No. 449). The Court has considered  
9  
10      the Declaration of Del Christensen as well as any testimony elicited or  
11      proffered without objection at the confirmation hearing. The only creditor or  
12      party in interest that filed an objection to confirmation of the Plan was the  
13      Unsecured Creditors Committee. Based upon the evidence, the Court hereby  
14      finds and concludes as follows:

15      *I. Findings of Fact*

16      1.       The Debtors gave proper notice of their Plan and the hearing on  
17      confirmation of the Plan to creditors and parties in interest as required by  
18      FRBP 2002, LBR 2002-1 and LBR 3018-1 as well as other applicable  
19      provisions of the Bankruptcy Code and Federal Rules of Bankruptcy  
20      Procedure. Proof of service of such notice has been filed with the Court  
21      (Columbia Docket No. 258, Wahluke Docket No. 275, Tatoes Docket No.  
22      451).



33      411 North 2<sup>nd</sup> St.  
34      Yakima, Washington, 98901  
          (509) 248-4282

FINDINGS OF FACT &  
CONCLUSIONS OF LAW

1       2. The following classes of claims are impaired under the Plan:

2           3 Class 3:                   Secured Claims of RAF  
3           4 Class 4:                   Secured Claims of Saddle Mountain Supply  
4           5 Class 5:                   Secured Claims of Windflow Fertilizer  
5           6 Class 6:                   Secured Claims of Ally Bank  
6           7 Class 7:                   Secured Claims of Ford Motor Credit  
7           8 Class 8.1:                  Claims of Deere & Company and Deere Credit, Inc.  
8           9 Class 8.2:                  Lease Claims of Deere & Company  
9           10 Class 9:                   Unsecured Claims – Administrative Convenience  
10           11 Class 10:                  Unsecured Claims – Wahluke Creditors  
11           12 Class 11:                  Unsecured Claims – Columbia Creditors  
12           13 Class 12:                  Unsecured Claims – Tatoes Creditors

13       3. The Debtors have properly filed a Report of Balloting and Ballot

14  
15 Summary in each of their cases. The Report of Balloting and Ballot

16  
17 Summaries indicate that:

18           19       3.1     Class 3 has voted in favor of the Plan in each of the  
20           21     Debtors' cases;

22           23       3.2     Class 4 did not vote for or against the Plan in the Tatoes,  
24           25     LLC case;

26           27       3.3     Class 5 has voted in favor of the Plan in the Tatoes, LLC  
28           29     case;

30           31       3.4     Class 6 did not vote for or against the Plan in the Tatoes,  
32           33     LLC case;



411 North 2<sup>nd</sup> St.  
Yakima, Washington, 98901  
(509) 248-4282

1           3.5   Class 7 did not vote for or against the Plan in the Tatoes,  
2  
3 LLC case;

4           3.6   Class 8.1 did not vote for or against the Plan in the Tatoes,  
5  
6 LLC case;

7           3.7   Class 8.2 did not vote for or against the Plan in the Tatoes,  
8  
9 LLC case;

10           3.8   One Hundred Percent (100%) of the votes cast in Class 9  
11 voted for the Plan in the Columbia Case. No Class 9 claimants voted for or  
12  
13 against the Plan in the Wahluke or Tatoes cases.

14           3.9   One Hundred Percent (100%) of the votes cast in Class 10  
15 voted for the Plan.

16           3.10   One Hundred Percent (100%) of the votes cast in Class 11  
17 voted for the Plan.

18           3.11   One Hundred Percent (100%) of the votes cast in Class 12  
19 voted for the Plan.

20           4.      No ballots other than those identified in the Report of Balloting  
21 and Balloting Summary have been received by the Debtors.



411 North 2<sup>nd</sup> St.  
Yakima, Washington, 98901  
(509) 248-4282

1       5. One Hundred Percent of the creditors casting votes in Class 3,  
2       Class 5, Class 9, Class 10, Class 11 and Class 12 voted in favor of the Plan.  
3  
4       No Class of creditors rejected the Plan.

5  
6       6. The Plan has been accepted in writing by at least one non-insider  
7       class of impaired creditors, as required by 11 U.S.C. §1129(a)(10).

8  
9       7. The Plan complies with all provisions of Title 11 of the United  
10      States Code as well as other applicable law.

11  
12      8. No creditor or party in interest has objected to confirmation of the  
13      Plan. Pursuant to FRBP 3020(b)(2), the Court finds the Plan has been  
14      proposed in good faith and not by any means forbidden by law.

15  
16      9. All payments made or promised by the Debtors under the Plan for  
17      services or for costs and expenses in, or in connection with, the Plan and  
18      incident to the case, have been fully disclosed to the Court and are reasonable  
19      and are hereby approved, or, if to be fixed after confirmation of the Plan, will  
20      be subject to approval of the Court. No party is issuing securities or acquiring  
21      property under the Plan.

22  
23      10. Prior to filing of the Debtors' bankruptcy petitions, all of the  
24      Debtors were owned one hundred percent (100%) by Del & Daneen



33      411 North 2<sup>nd</sup> St.  
34      Yakima, Washington, 98901  
         (509) 248-4282

FINDINGS OF FACT &  
CONCLUSIONS OF LAW

1 Christensen. After confirmation of the Plan, Columbia Manufacturing, Inc.  
2 and Wahluke Produce, Inc. will be merged into Tatoes, LLC, which shall  
3 become the Reorganized Debtor under the Plan. The Reorganized Debtor will  
4 be owned one hundred percent (100%) by Del & Daneen Christensen (See  
5 Treatment of Class 14 Claim at pg. 40 of Plan).

6  
7  
8  
9  
10 11. After confirmation, the Reorganized Debtor intends to continue  
12 employing the insiders who are described in Exhibit 12 to the Debtors'  
13 approved 2<sup>nd</sup> Amended Disclosure Statement. The compensation for such  
14 insiders is disclosed in paragraph 3.8 of the Plan.

15  
16 17. With respect to each impaired class of claims described in the  
18 Plan, the Plan will pay such claimants one hundred percent (100%) of the  
19 principal balance of such claims, with interest, over time, as more specifically  
20 described in the Plan.

21  
22 23. 13. The Debtors have prepared a liquidation analysis, which is  
24 attached to the Debtors' approved Disclosure Statement. The liquidation  
25 analysis demonstrates that in the event the Debtors were liquidated, as  
26 opposed to reorganizing pursuant to the terms of the Plan, that creditors in  
27  
28  
29  
30



31 32 33 34  
411 North 2<sup>nd</sup> St.  
Yakima, Washington, 98901  
(509) 248-4282

1 Classes 4-12 would, more likely than not, receive less than one hundred  
2 percent (100%) of the amount of their allowed claims.  
3

4       14. The Court finds that creditors in Classes 4-12 will receive more  
5 under the Debtors' Plan than they would receive if the Debtors were liquidated  
6 pursuant to the provisions of Chapter 7 of the Bankruptcy Code.  
7

8       15. Administrative Claimants in Class 1 will be paid in cash either:  
9  
10      (a) upon the Effective Date of the Plan (unless any particular Claimant agrees  
11 upon a different or less favorable treatment); or (b) upon approval of such  
12 administrative claimants' fees and costs as required by applicable Bankruptcy  
13 law. Such treatment complies with the requirements of 11 U.S.C.  
14  
15      §1129(a)(9)(A).  
16

17       16. Other than Class 1 Administrative Creditors, the Debtors do not  
18 have any creditors with claims pursuant to 11 U.S.C. §507(a).  
19

20       17. The Debtors' approved Disclosure Statement describes the  
21 Debtors' proposed operations under the Plan. No creditor or party in interest  
22 has objected to the feasibility of the Debtors' projected operations under the  
23 Plan. The Court finds that it is more likely than not that: (a) the Debtors' Plan  
24 is feasible; and (b) confirmation of the Plan will not be followed by a  
25  
26



27       411 North 2<sup>nd</sup> St.  
28       Yakima, Washington, 98901  
29       (509) 248-4282  
30  
31

32       **FINDINGS OF FACT &**  
33       **CONCLUSIONS OF LAW**

1 liquidation of the Debtors. The feasibility of the Debtors' Plan is further  
2 supported by the Debtors' operations during the course of the case (as  
3 evidenced by the Debtor's monthly operating statements on file with the  
4 Court).  
5

6  
7 18. Classes 1, 2, 13 and 14 are unimpaired or not entitled to vote on  
8 the Plan.  
9

10  
11 19. The Debtors are current in the payment of the quarterly fees  
12 payable to the United States Trustee. The Plan provides for the payment of all  
13  
14 United States Trustee fees payable under 28 U.S.C. §1930.  
15

16  
17 20. All payments to insiders of the Debtors during the course of the  
18 case have been disclosed.  
19

20  
21 21. Classes 4, 6, 7, 8.1 and 8.2 ("Non-Voting Classes") have neither  
22 accepted nor rejected the Plan. As a result, the Plan does not comply with 11  
23 U.S.C. §1129(a)(8). The Non-Voting Classes, with the exception of Class 8.2  
24 are secured creditors. The Court finds that the treatment of the Non-Voting  
25  
26 Classes under the Plan is fair and equitable for the following reasons:  
27  
28  
29  
30  
31  
32  
33  
34



411 North 2nd St.  
Yakima, Washington, 98901  
(509) 248-4282

1           21.1 The Plan provides that creditors in the Non-Voting Classes  
2 will retain any security which secures such creditors' claims until such claims  
3 have been paid in full;  
4

5           21.2 The Plan provides for the payment of one hundred percent  
6 (100%) of the principal amount of such claims in the Non-Voting Classes over  
7 time; and  
8

9           21.3 The Plan provides for interest payments to holders of  
10 claims in the Non-Voting Classes until such claims have been paid in full in  
11 accordance with the terms of the Plan.  
12

13          22. The Effective Date of the Plan is the day that is fourteen (14)  
14 days after the date the order confirming the Plan is entered on the Court's  
15 docket.  
16

17          23. Substantial Consummation of the Plan will occur upon the  
18 making of the first payment to a creditor in Class 3 – Class 12 according to the  
19 terms of the Plan.  
20

21          24 The modification of the Plan as a result of the language added to  
22 the order confirming the Plan set forth below in Paragraph U. is not a material  
23



24           411 North 2<sup>nd</sup> St.  
25           Yakima, Washington, 98901  
26           (509) 248-4282

27           **FINDINGS OF FACT &**  
28           **CONCLUSIONS OF LAW**

1 modification of the Plan and does not require additional notice or solicitation of  
2 the Plan again.  
3

4  
5  
6  
7  
8  
9  
10 *II. Conclusions of Law*

11       Based upon the foregoing findings of fact, the pleadings filed in this  
12 case and the testimony and other evidence provided at the confirmation  
13 hearing, the Court concludes that:

14           A.     The requirements for confirmation of the Plan imposed by the  
15 Bankruptcy Code, Federal Rules of Bankruptcy Procedure and other  
16 applicable law, including the requirements of 11 U.S.C. §1129 have been met.

17           B.     The Plan should be confirmed.

18           C.     To the extent that the above entered findings of fact are, in fact,  
19 conclusions of law, such findings are hereby incorporated into these  
20 conclusions of law and should be denominated as such.

21           D.     The provisions of Chapter 11 have been complied with and the  
22 Plan has been proposed in good faith and not by means forbidden by law.



411 North 2<sup>nd</sup> St.  
Yakima, Washington, 98901  
(509) 248-4282

1           E. Any and all payments for which Bankruptcy Court approval is  
2 required, including authorization required by 11 U.S.C. §§327 and 330, shall  
3 remain subject to Bankruptcy Court approval notwithstanding confirmation of  
4 the Plan.

5  
6           F. The Debtors have disclosed the identity and affiliations of all  
7 parties who are to serve as officers and directors under the Plan. The Debtors  
8 have disclosed the identity of all insiders who will be paid a salary or  
9 consulting fees under the Plan. The Debtors' disclosures satisfy the  
10 requirements of 11 U.S.C. §1129(a)(5).

11  
12          G. No governmental regulatory commission is required to approve  
13 the Plan or the terms of the Plan.

14  
15          J. The Debtors' Plan satisfies the requirements of 11 U.S.C.  
16 §1129(a)(7) in that each impaired class that has not accepted the Plan will  
17 receive value, as of the Effective Date of the Plan, that is not less than the  
18 amount such claimant would receive if the Debtors were liquidated under  
19 Chapter 7 of the Bankruptcy Code.

20  
21          K. The only Classes entitled to vote on the Plan who have not  
22 accepted the Plan are the Non-Voting Classes. However, the Plan is fair and



1       equitable with respect to the treatment of the Non-Voting Classes pursuant to  
2       11 U.S.C. §1129(b)(2)(A). As a result, the Plan can be confirmed  
3       notwithstanding the provisions of 11 U.S.C. §1129(a)(8).

4  
5       L.      Administrative Claims described by 11 U.S.C. §503(b) and 11  
6       U.S.C. §507(a)(2) are provided for as required by 11 U.S.C. §1129(a)(9).

7  
8       M.     At least one impaired class of claims has accepted the Plan and  
9       the Plan therefore meets the requirements of 11 U.S.C. §1129(a)(10).

10  
11      N.     Confirmation of the Plan is not likely to be followed by the  
12       liquidation, or the need for further financial reorganization of the Debtors.

13  
14      O.     The Effective Date of the Plan will be the date that is fourteen  
15       (14) days following entry of the order of confirmation on the Court's docket.

16  
17      P.     The Debtors are authorized and directed to begin consummation  
18       of the Plan on the Effective Date, including through the execution, ratification,  
19       and implementation of all loan and security documents authorized or  
20       contemplated by the Plan.

21  
22      Q.     Substantial Consummation of the Plan will occur upon the  
23       making of the first payment to a creditor in Class 3 – Class 12 according to the  
24       terms of the Plan.



25  
26       411 North 2<sup>nd</sup> St.  
27       Yakima, Washington, 98901  
28       (509) 248-4282

1           R.     The loan and security documents contemplated by the Plan  
2 concerning the restructuring of the Debtors' obligations to Rabo AgriFinance,  
3 LLC, shall be, and they are, hereby approved by the Court in all of their  
4 particulars.  
5

6           S.     The RAF Plan Claim Amount and the RAF Set Aside Claim  
7 Amount, both of which are set forth in the *Rabo AgriFinance, LLC's Claim*  
8 *Amount Plan Supplement* (the "**RAF Claim Supplement**") filed with the  
9 Court in each of the Debtors' cases on July 7, 2017 (Columbia Docket 263,  
10 Wahluke Docket 280, and Tatoes Docket 455), shall be, and they hereby are,  
11 approved, and those amounts (subject to adjustment as described in the RAF  
12 Claim Supplement) shall jointly constitute the amount of RAF's Allowed  
13 Secured Claim as of the Effective Date.  
14

15           T.     Creditors and parties in interest were given proper notice of the  
16 confirmation hearing.  
17

18           U.     The Objection to confirmation of the Plan filed by the Unsecured  
19 Creditors Committee was addressed by the Debtors adding the following  
20 immaterial language to the order confirming the Plan, which order has been  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34



411 North 2<sup>nd</sup> St.  
Yakima, Washington, 98901  
(509) 248-4282

1 agreed to by the Unsecured Creditors' Committee, and which does not require  
2 additional notice or solicitation of the Plan again:  
3

4       9. The Unsecured Creditor's Committee ("Committee")  
5 has filed an objection to confirmation. The objection of the  
6 Committee is hereby resolved as follows:  
7

8       9.1 Notwithstanding anything to the contrary in the Plan, in  
9 the event the Reorganized Debtor: (a) files a motion to seek  
10 Court approval to invoke the crop failure provisions contained  
11 paragraph 8.3 of the Plan; (b) defaults under the terms of the  
12 Plan; or (c) proposes a material modification to the Plan, any  
13 unsecured creditor or the United States Trustee may file a  
14 motion to reconstitute the Creditors' Committee for purposes of  
15 dealing with such matters. The Court specifically retains  
16 jurisdiction to rule upon such a request to reconstitute the  
17 Committee, which request may include a request for the  
18 reconstituted Committee to retain legal counsel or other  
19 professionals to assist the Committee.

20       V. With the addition of the language described in paragraph U.,  
21 above, the objection to confirmation of the Unsecured Creditors Committee is  
22 hereby withdrawn.  
23

24                    /        /        /        End of Order        /        /        /  
25  
26  
27

28       Presented By:  
29  
30  
31



32       411 North 2<sup>nd</sup> St.  
33       Yakima, Washington, 98901  
34       (509) 248-4282

FINDINGS OF FACT &  
CONCLUSIONS OF LAW

1                   /s/ Roger W. Bailey  
2 ROGER W. BAILEY (WSBA 26121)  
3 JOSHUA J. BUSEY (WSBA 34312)  
4 Bailey & Busey PLLC  
5 Counsel for Wahluke Produce, Inc.  
6  
7

8                   /s/ Paul H. Williams  
9 Paul H. Williams (WSBA 31684)  
10 Law Offices of Paul H. Williams  
11 Counsel for Tatoes, LLC  
12  
13

14                   /s/ James P. Hurley  
15 James P. Hurley (WSBA 6615)  
16 Hurley & Lara  
17 Counsel for Columbia Onion  
18  
19 \\\Diane-pcl\el\USB 3.0 PC Card Adapter\WAHLUKE PRODUCE-355\Bankruptcy\Pleadings\Plan  
Documents\Findings of Fact & Conclusions of Law - 071017 - v.5- agreed.doc  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34



411 North 2<sup>nd</sup> St.  
Yakima, Washington, 98901  
(509) 248-4282

FINDINGS OF FACT &  
CONCLUSIONS OF LAW